

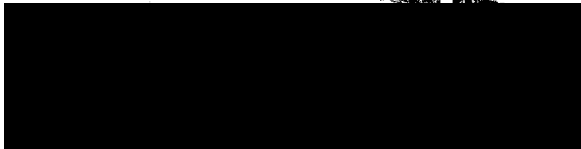
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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
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Services

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DEC 02 2004

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, California Service Center, is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

On appeal, the applicant simply states that he is appealing his case and submitting copies of documents previously submitted.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act may be terminated at any time if the alien fails to file for adjustment of status from temporary to permanent resident on Form I-698 within forty-three (43) months of the date he/she was granted status as a temporary resident. *See* 8 C.F.R. § 245a.2(u)(1)(iv).

The applicant was granted temporary resident status on March 21, 1989. The 43-month eligibility period for filing for adjustment expired on October 21, 1992. The Application for Adjustment of Status from Temporary to Permanent Resident (Form I-698) was filed on June 21, 2001. The director therefore denied the untimely I-698 application, and subsequently terminated the applicant's temporary resident status.

In response to an earlier notice of intent to terminate, the applicant stated that he never knew that he had been granted temporary residence until he was advised by a local legalization office in 2001. Notices of approval of temporary residence were sent to aliens' last known addresses, and notices warning of the deadline were sent to such addresses as well. The original eligibility period of 31 months was extended to 43 months to better enable applicants to learn English and civics, and file timely applications. The burden to file the adjustment application in a timely manner remains with the applicant. *See* 8 C.F.R. § 245a.3(d).

The applicant's statements made on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above. As the applicant has not overcome the grounds for termination of status, the appeal must be dismissed.

It is further noted that the applicant indicated on his Form I-698 application, which was filed in 2001, that he had never been arrested. However, records indicate he was arrested on December 1, 1992 for Burglary, Receiving Known Stolen Property, and False I.D. to Specific Peace Officers. He was subsequently convicted of these offenses. Therefore, he is ineligible for permanent residence pursuant to

on this basis as well, pursuant to 8 C.F.R. § 245a.2(u)(1)(iii), which provides for termination in the case of an alien convicted of one felony or three or more misdemeanors committed in the United States.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.